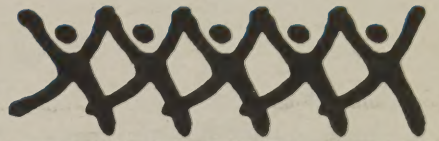


Freedom WatchTM

5th Anniversary Issue



Citizens Project

Act Not Lest You Be Judged

The Inconsistent Conservative Assault on "Judicial Activism"

by Michael Dyer

The Christian Coalition and other right-wing activists are stepping up their offensive on federal judges whom they depict as "judicial activists."

According to these groups, judicial activists are judges who "legislate from the bench" or arrive at decisions in order to promote a personal social agenda.

These groups say the judiciary is overstepping its bounds, acting undemocratically, and undermining the will of the people. In particular, they point to

decisions that have overturned voter initiatives and referenda, such as Colorado's own Amendment 2, and affirmative action roll-backs.

Thomas Jipping of the Free Congress Foundation stated that, "It's bad enough when judges impose their will on legislatures, but when they thwart the purest form of democracy you can imagine [voter initiatives], it's a real blow to self-government."

In an editorial for the conservative journal, *Policy Review*, Dennis Shea said, "In case after case, federal judges are

expressing contempt for democracy, overturning laws passed by state legislatures or adopted directly by the people through the initiative process."

While many couch their resentment in nonpartisan terms, other statements suggest a highly partisan agenda. The efforts of the Religious Right seem directed not at activist judges but at certain types of rulings, and to advance certain agendas.

In *Christianity Today*, Charles Colson noted that the U.S. Supreme

Court "defined liberty as an individual's right to determine the meaning of life and the universe." Blasting this as "radical individualism," he declared that this definition effectively disenfranchises "Christians or anyone who adheres to a transcendent moral standard" from the democratic process. His brief foray into pluralism ended abruptly when he stated, "We must not allow

the gospel to be taken hostage to any political ideology."

In a position paper, the Christian Coalition (CC) stated, "Now to the liberal activist judges and their friends and allies, the people of America say very simply: You have violated us long enough. We want our history back. We want our traditions back. We want our Constitution back. And, we want God back in the schools of America."

The Nature of the Assault

Leading the current attack on "activist" judges is House Majority Whip Tom DeLay (R-Texas). DeLay announced plans to seek impeachment of three federal District Court judges and is compiling a list of other possible targets.

In our tripartite system of government, the federal judiciary branch was intended to be independent of political ebbs and flows. Thus, justices are appointed for life, with the only constitutional check on them

being the option of impeachment for "high crimes and misdemeanors" (Article II, Section 4).

DeLay and others expanded the list to include "misbehavior," not just criminal acts. As DeLay puts it, "I advocate impeachment of those judges who consistently ignore their constitutional role, violate their oath of office and breach the separation of powers." DeLay offers no evidence that any of these judges has done so.

DeLay is inconsistent in his assault. He ignores a federal District Court decision to

... the federal judiciary branch was intended to be independent of political ebbs and flows.

Dobson Builds Support for National Parental Rights

by Cassie Armstrong

In a recent note to his Colorado Springs followers, Focus on the Family founder Dr. James Dobson called for support of a national parental-rights initiative.

Dobson's message headed an information packet about the Campaign for Working Families (CWF), spearheaded by Gary Bauer and the Family Research Council (FRC) headquartered in Washington, D.C. In the letter, Dobson asked followers to donate generously to the group. He also

encouraged them to sign and send an attached letter to Rep. Joel Hefley (R-Colo.) urging his support for the Parental Rights and Responsibilities Act.

Despite legal restrictions on Focus on the Family's involvement in legislation, this type of personal endorsement by Dobson is not unusual. According to Focus, Dobson sent a note endorsing Colorado's Parental Rights Amendment in the fall before elections and again in January.

Currently, no PRRA bill is on the Congressional agenda. The bill failed during the 104th Congress. Colorado voters rejected a state version in the November elections. Of the 32 states where similar legislation was proposed, only Texas has passed it.

"It is not unusual for both Dobson and Bauer to be doing some fund raising for their cause," said Phil Hayes, Western states coordinator for Peo-

ple for the American Way, an activist group committed to fighting the Religious Right's political agenda. His group's Web site stated that CWF raised \$600,000 in the past three months and also reported that CWF's monetary goal is to raise \$1.5 million by year's end.

It is also probable, Hayes

said, that Bauer's group is lobbying Congress to introduce new parental rights legislation for the 105th Congress and that Dobson's letter may be part of

that lobbying effort. Jennifer Marshall, working with education policy for the FRC, is currently working on that effort. Marshall, however, did not return calls.

"Colorado's Parental Rights Act lost support due to a raised awareness that it might protect and aid bad parents," said Rob Boston of Americans United for Separation of Church and State, a national watchdog group. "The people in Colorado did a good job defeating the measure through their campaign."

Boston said the national initiative was also flawed because its supporters could find "no good way to deal with the child-abuse issue. The idea of giving aid and comfort to bad parents was difficult to deal with." He added the act will likely go nowhere due to the child-abuse issue.

Dobson, Bauer, and Hefley could not be reached for comment. CP

Colorado's Parental Rights Act lost support due to a raised awareness that it might protect and aid bad parents.

Citizens Project

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Religious Freedom

Restored or Amended

by Megan Day

Christians, Jews, Muslims, Hindus, conservatives, and liberals have expressed frustration at the Supreme Court's recent decision to overturn the 1993 Religious Freedom Restoration Act (RFRA).

Since Congress and the President almost unanimously enacted RFRA, it has protected houses of worship and people of all faiths from intrusive forms of government control. The law allowed government agencies to impinge on religious faith only if they had a "compelling interest" to do so (such as public health or safety) and used "the least restrictive means."

"The people who are going to be hurt by this ruling are the small religious minorities whose religious practices are considered outside the mainstream and who have no power to lobby for an exemption," said Joseph Conn of Americans United for Separation of Church and State.

Many see the Court's ruling as a victory for states' rights, enabling local and state officials to cease making special exemptions in zoning, building, school, prison, employment and anti-discrimination laws on religious grounds. As Justice Kennedy wrote for the court majority, the act intruded into every level

of government, making "any law subject to challenge at any time by any individual who alleges a substantial burden on his or her free exercise of religion."

The Court's ruling strictly limits Congress's ability to interpret the Constitution, leaving this right to the judicial branch. Congress originally passed RFRA largely in response to an earlier Supreme Court decision, which many said gutted individual religious liberty.

In response to the Court's decision, groups such as the Christian Coalition and Focus on the Family argue that the Religious Freedom Amendment, proposed earlier this year, is a viable alternative. The Christian Coalition pledged \$1 million to promote that amendment.

The recently overturned RFRA protected people of all faiths equally. This new act, on the other hand, may fail to protect those of minority faiths and denominations. It could allow public school teachers to preach in the classroom, enable public schools to sanction school prayer, and require public funding of sectarian activities.

RFRA opponents include the Presbyterian Church (USA), American Jewish Congress, Episcopal Church, United Methodist Church, Lutheran Church, and American Baptist Church. **CP**

OUR VIEW

The Religious Freedom Amendment poses a serious threat to religious liberty. A Congressional hearing for the amendment (H.J. Resolution 78) is already scheduled for a Congressional hearing on July 22, 1997. It reads:

TO SECURE THE PEOPLE'S RIGHT TO ACKNOWLEDGE GOD ACCORDING TO THE DICTATES OF CONSCIENCE: THE PEOPLE'S RIGHT TO PRAY AND TO RECOGNIZE THEIR RELIGIOUS BELIEFS, HERITAGE OR TRADITIONS ON PUBLIC PROPERTY, INCLUDING SCHOOLS, SHALL NOT BE INFRINGED. THE GOVERNMENT SHALL NOT REQUIRE ANY PERSON TO JOIN IN PRAYER OR OTHER RELIGIOUS ACTIVITY, INITIATE OR DESIGNATE SCHOOL PRAYERS, DISCRIMINATE AGAINST RELIGION, OR DENY EQUAL ACCESS TO A BENEFIT ON ACCOUNT OF RELIGION.

H. J. Resolution 78 does not authorize government to coerce or inhibit belief. However, this amendment could:

- allow official prayer in public schools,
- require public funding of sectarian activities,
- allow public school teachers to preach in the classroom,
- contradict and undermine the First Amendment's protections of religious freedom,

- elevate religious belief and expression over other forms of belief and expression under the law, and
- allow Christianity to be declared the official state religion, for example, as long as it was not enforced through coercive measures.

It should also be noted that:

- Students already have the right to pray in school.
- RFA may fail to protect those of minority faiths and denominations.
- Government funding of religious institutions comes with government restrictions which will weaken religion's autonomy.
- 55 national organizations oppose this amendment, including the leadership of almost every mainstream religious denomination.

Colorado Representatives Joel Hefley (R), Scott McInnis (R) and Bob Schaffer (R) are among the amendment's 130 co-sponsors.

If you share our concerns about this amendment, please contact:

REPRESENTATIVE DAN SCHAEFER
R-COLORADO 6TH DISTRICT
2160 Rayburn House Office Building
Washington, DC 20515-0606
Ph: (202) 225-7882
Fax: (202) 225-7885

Email: schaefer@hr.house.gov

Lest You Be Judged, continued

acquit two men of obstructing an abortion clinic based on their defense that their "religious conscience" guided them. (District Judge John Sprizzo declared that violations of the law based on moral grounds could be overlooked by judges.) DeLay supports Alabama State Judge Roy Moore's refusing to obey a ruling that he discontinue prayers before court proceedings and remove a plaque of the Ten Commandments from his courtroom. (Moore has also stated that he would never allow a Buddhist or a Muslim to offer a prayer in his courtroom.)

DeLay claims historic precedent for his impeachment ratio-

nale, but of the 13 federal judges impeached since the ratification of the Constitution, all were impeached based on criminal violations.

Other Actions

Impeachment is not the only tactic being pushed. Sen. Orrin Hatch has vowed to prevent confirmation of "judicial activists" by using a philosophical litmus test which would not, he assured, bring politics into the selection process. (Yet, Hatch served on the committee during the Robert Bork confirmation for the U.S. Supreme Court hearings. Hatch was the strongest objector to a philosophical litmus test being used to prevent confirmation of the conservative Bork.)

The Senate Republican Conference has voted to "respond legislatively to judicial activism." This follows Robert Bork's proposal to allow for

legislative override of judicial decisions and is precisely what our Constitution forcefully avoids with the independent judiciary. The Constitution allows Congress to pass legislation subject to judicial review or for amendments to the Constitution.

Dennis Shea, in *Policy Review*, advocates forming two new congressional subcommittees to "cull through recent federal court decisions and publicize those that fall within the shameful category, including the U.S. Supreme Court's rejection of Colorado's Amendment 2. He also proposes non-binding congressional "resolutions expressing disapproval of those rulings that show a clear disregard for established law." This would "serve as a warning to renegade federal judges." He offered no examples of these renegades.

Similarly, the Judicial Selection Monitoring Project, a conservative coalition headed by Thomas Jipping, has asked senators to pledge to not confirm "activist" nominees. He

noted that his coalition includes "260 grassroots organizations and 35 radio talk show hosts." Sen. Patrick Leahy (D-Vt.) publicly responded to Jipping's letter,

saying, "Nor do I appreciate your thinly veiled threat that you will employ talk show hosts and national organizations to pressure me into making such a pledge. These tactics to force others to adopt your narrow view of political correctness are wrong, and reminiscent of a dark period from our history."

Perhaps the best illustration of the conservative attack on activist judges came from William Kristol, an aide to former Vice President Dan Quayle. Editor of the conservative *Weekly Standard*, Kristol said, "Trying to rein in the federal judiciary can have great political appeal. You can channel populist anger at the notion of elitist judges with a general sense of resentment that the federal government is controlling people's lives too much." He commented later that conservatives could not achieve

their goal of changing society without also profoundly changing the courts.

Judicial Independence

The judiciary is meant to be objective, non-partisan, and independent, with a constitutional mandate to provide a check to the tyranny of the majority and not to bow to current political winds.

In the Federalist Papers Alexander Hamilton wrote, "The complete independence of the courts of justice is peculiarly essential." The responsibility of the judicial branch "must be to declare void all acts contrary to the manifest tenor of the Constitution. Without this, all the reservations of particular rights or privileges would amount to nothing."

Federal judges were a major factor during the struggle for civil rights in protecting minority rights. Robert Kaufman of the American Judicature Society said, "Were it not for the decisions of courageous judges who abided by the Constitution on matters such as voting rights, freedom of expression, and search and seizure, we would not have the free and open society we have today." **CP**

Trying to rein in the federal judiciary can have great political appeal.

Five Years

Through the Looking Glass

by Amy Divine

Old friends, community leaders, parents, teachers and business people – we all came together recently one evening to celebrate five years of existence for Citizens Project. The event gave us a chance to briefly relive the past five years – with its challenges, joys, anxieties and growth – and recall our humble beginnings and what first prompted our formation.

The Woodland Park School district was sued for teaching classical mythology by a group who said classical mythology should be balanced with Bible study courses.

The make-up of a student-organized "Diversity Panel" was altered to exclude gays and pagans after the District 11 administration received calls from a dozen community members. An obscure ballot initiative known as Amendment 2 was on the horizon. Something needed to happen.

With a phone and computer in our basement, my husband and I made calls to anyone who might share our concerns about the rise of intolerance in our community. We set out to counter that trend and speak for tolerance, diversity, religious liberty, and separation of church and state. We organized supporters, published *Freedom Watch*, spoke around town, and worked with the media to spread a different message.

In January 1993, we held the first general meeting for Citizens Project supporters. We were overwhelmed by the response. More than 800 people packed the Fine Arts Center to find out how they could make a difference. Support mushroomed and Citizens Project began a roller-coaster journey through issues, advocacy, coalition-building, fostering dialogue, and providing a strong and reasoned voice for moderation in this community. The energy and support we received from that meeting – and have received since – have sustained us through some difficult but rewarding times.

Since those early days, Citizens Project has developed into a volunteer-driven organization with one extraordinary staff person, a 13-member Board of Directors, an Activist Network, a Schools Network, and a Creationism in Public Schools Task Force.

Among the highlights of these five years, CP spearheaded the local campaign to defeat the Parental Right Amendment, organized to ensure the region had a human relations entity, published candidate surveys and organized forums

for local elections. We launched Dialogue Dinners, worked with parents and administrators to defend religious equality and free speech in public schools, and established and maintained an extensive research library

on issues, extremist organizations and incidents. We developed *Freedom Watch* into a hallmark publication addressing and countering intolerance in the Pikes Peak region, worked behind the scenes in innumerable situations to steadily bring civility, reason and inclusion back into the mainstream. We broke numerous stories to the media, including Cornerstone Baptist Church's baptizing children without parental knowledge, a police officer distributing disturbing religious material while in uniform, the relocation of the Family Research Institute (a group that promulgates bogus research about gays) to the region, and the American Family Association's efforts to ban Howard Stern's book in our library district.

Intolerance, extremism, and censorship efforts, along with challenges to public education, free speech and religious liberties continue to surface here. But with continued community support and encouragement, we will remain vigilant on these issues. Together we have already made a difference, and together we can look forward to more positive changes and a smoother ride. **CP**

More than 800 people packed the Fine Arts Center to find out how they could make a difference.

Inside CP

CP in the News

- The National Center for Science Education featured CP in an article on the District 20 Classical Academy's disproportionate emphasis on the Bible and plans to teach creationism in the science curriculum. After CP exposed these plans, District 20 agreed to exclude the inappropriate portions of their curriculum.

- People for the American Way requested information from CP on Colorado for Family Value's proposed sexual conduct policy.

- We were cited in the acknowledgments for our contributions to *The Anti-Gay Agenda*, recently published by the University of Chicago Press.

- *The Gazette* published Doug Triggs's letter to the editor denouncing Cornerstone's disrespect for family and religious values, and Pastor Jesse Brown and Megan Day's letter to the editor regarding the Religious Freedom Restoration Act.

- CP hosted a booth at Juneteenth.

- The *Woodmen Edition* cited CP in two articles on school choice in District 20.

Wish List

Audio cassette tapes (used or new) and a VCR would greatly improve our research efforts.

Fifth Birthday Bash

Thanks to all of you who

joined us in commemorating five years of celebrating diversity and creating community in the Pikes Peak region.

Special thanks to Primitivo, a new wine bar and restaurant in the heart of downtown. Primitivo donated their new digs, wine AND hors d'oeuvres for the celebration. Thanks also to AdWerks for donating layout and design work for the invitations.

CP Receives Chinook Grant

Citizens Project is fortunate to have received a general operating grant from the Chinook Fund, a partnership of activists, donors, and social change organizations dedicated to creating a just and equitable society. Chinook raises funds each year to provide grants, technical assistance, and networking opportunities for grassroots organizations throughout Colorado. **CP**

News Briefs

AFA Miffed at CP

Tom Pedigo, Colorado state director of the American Family Association, found Doug Triggs's letter to the editor denouncing the Cornerstone Baptist Church's baptisms of children without parental permission or knowledge quite objectionable. Pedigo sent us a letter calling Triggs's letter "ironic at best and hypocritical at worst."

He charges that we do not uphold pluralism, as our mission states. "If that's your real mission, then you wouldn't be so upset about Cornerstone, for they are just practicing what they believe about their fundamentalist religion. So much for your 'pluralism.'" His letter also states, "Pastor Miller owes no one an apology."

As a point of clarification, we do believe strongly in pluralism – the idea that diverse communities can coexist rather than become segregated communities where discrimination is the norm. In order to coexist, however, we need to have respect for racial, religious and other differences, a respect Cornerstone violated.

Christian Coalition Targets Moderate Republicans

The Christian Coalition (CC) of Colorado recently solicited funds and new members by way of a mass mailing sent to many El Paso County residents. The letter called on Christians to fight massive anti-Christian, "pro-abortion / pro-homosexual forces" seeking to prevent school prayer and the display of the Ten Commandments in courtrooms. Claiming to speak for all Christians, the CC charged in the letter that, "Pro-abortion liberals have scoffed at God's sovereignty for too long!"

In addition, the letter implied that only Christians – and therefore Christian legislators – can save Colorado from "traveling down the road of moral and social chaos." This letter specifically targets State Representative Republican Marcy Morrison.

Morrison was also among their "Fake Fifteen," a list of Republicans in the state legislature targeted by the CC of Colorado for failing to fall in line with their extremist positions.

On a side note, the letter was signed by El Paso County CC President Chuck Gosnell. Known for developing the largest local CC chapter in

the nation, Gosnell recently became chairman of the state chapter, suggesting the CC's attention to our region will increase.

Quiet Resolve for Zero Tolerance

Under new leadership, City Council recently adopted a resolution pledging zero tolerance for "any form of discrimination of a racial, ethnic, sexual or religious nature." The policy, based on federal guidelines, has already come under attack by Colorado for Family Values. The effort to pass a city ordinance protecting gays and lesbians from discrimination sparked CFV's statewide Amendment 2 campaign.

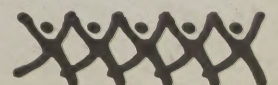
Feds Push Abstinence-Only on States

A little-known provision in the new welfare bill allows states to apply for federal funding for abstinence-only education. The provision makes \$250 million available to states, and subsequently to local school districts, so long as they teach that sex outside of marriage "is likely to have harmful psychological and physical effects." Abstinence-only education would, "as its exclusive purpose, [teach] the social, psychological, and health gains to be realized by abstaining from sexual activity."

Some states decided that submitting local schools to these federal guidelines was too restrictive and may even prevent schools from providing information on birth control. Instead, Maine, for instance, plans to request funding for public service announcements encouraging abstinence.

Research groups warn that abstinence-only programs, as opposed to the abstinence-based health education mandated in the state of Colorado, sometimes lead to scare tactics and false or misleading claims.

The Colorado Department of Public Health and Environment plans to request \$14,000 for public service announcements and \$50,000 for abstinence-only programs in public schools. Local school districts would then apply for the funds through the state, but with one catch: Every four federal dollars must be matched with three from the local school or state, draining funds from other programs. **CP**



Citizens Project

County Commission May Dissolve Board of Health

by Megan Day

In a recent work session, County Commissioners Betty Beedy and Duncan Bremmer made an unexpected push to dissolve the Board of Health, the volunteer governing body of the El Paso County Health Department.

They argued the County Commission should replace the Board of Health and have direct governance over the Department of Health (DOH). Beedy and Duncan cited a desire to have greater control over the department's budget as their motivation for the take-over.

If the commissioners take over, however, El Paso County's Health Department would lose approximately \$1 million: nearly \$600,000 due to change in its classification, and nearly \$400,000 due to lost revenue from fees generated through access to vital records (birth and death certificates). The County

Commission already serves as governing board for the Department of Social Services, which has come under extensive scrutiny for fiscal improprieties in recent months. This leaves in question their motivation for dissolving the Board of Health.

Recent positions taken by Bremmer and pressure by conservative right-wing activist Will Perkins have caused speculation that the motivation for dissolving the Board of Health is political in nature.

The Inside/Out Youth Group, a support group for gay and lesbian youth, used to be run by the DOH and had long been a bone of contention between the department and Perkins. He addressed his concern with the commissioners. Perkins' name was mentioned more than once in the work session.

Asked to attend the work session, the Board of Health had

no inkling their existence would soon be challenged until two minutes before the meeting when they were handed a memo by Commissioner Bremmer outlining the work session's agenda. Nor did Ed Jones, liaison to the board and the department, disclose the meeting's expanded agenda ahead of time to the board.

The Board of Health is comprised of professionals from a variety of fields and, therefore, brings a broad range of expertise and community contacts to the DOH. They have been credited with helping the department's former director Dr. Muth with generating thousands of dollars of in-kind contributions through partnerships with private businesses and health practitioners. As a result of these efforts and their success in receiving federal grant funding, only one third of the

department's budget comes from the county.

As an appointed rather than an elected body, the Board of Health is able to focus on protecting public health and users' privacy rather than on politics.

John Potterat, director of the STD/HIV Department of the DOH, asked, "Why take an institution that has worked so marvelously well and, in fact, existed before the County Commission and dissolve it? This would turn every public health initiative into a political issue."

Potterat added that the county is "a minority shareholder. If they want more control, they should cough up more money."

A second public work session to continue discussion about dissolving the Board of Health will be held at 2 p.m. on August 21 at the County Building, 27 E. Vermijo St., on the third floor. The public is welcome. County Commissioners may be contacted in the meantime at the same address or by telephone: 520-6444. CP

Announcements

Pride Fest

This year's Pride Fest, celebrating the gay and lesbian community in Colorado Springs, will be held on Sunday, July 20. The parade starts at 1 p.m. at the corner of Tejon and Cache la Poudre and will end at Acacia Park where festivities will continue until 5 p.m.

Save the Date for NWC

Colorado Springs has been chosen for the site of the 11th Annual Conference of the Northwest Coalition Against Malicious Harassment (NWC). NWC formed in 1986 in response to the growing influence of and intimidation by white supremacist groups in the Northwest. The group now encompasses civic, civil rights, and religious groups, and

human rights commissions and law enforcement agencies. Their mission is to foster communities free from malicious harassment and from violence and bigotry based on race, religion, gender, sexual orientation, national origin or ancestry.

A member of the NWC, Citizens Project is helping to plan this year's conference, which will be held at Colorado College September 27-28. The public is welcome. Call us at 520-9899 for registration materials.

Volunteer Opportunity

The Inside/Out program for gay, lesbian, bisexual, and transgendered youth needs volunteers age 25 or older. Interviews and background checks will be conducted. Call Regina at 578-5160. CP

Our Mission: Citizens Project is a grassroots organization in the Pikes Peak region dedicated to upholding the traditional American values of pluralism, freedom of religion, and separation of church and state.

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Freedom Watch also receives support from the Chinook Fund, a foundation dedicated to supporting grassroots community organizing and social change in Colorado.

You can make a difference

JOIN Citizens Project

Your voice for tolerance in the Pikes Peak region.

Citizens Project ...

- Reports on news and views in *Freedom Watch*

- Organizes campaigns, workshops and events
- Sponsors candidate surveys and forums

- Monitors and informs on legislative and other issues

... and more

☐ Yes, I'd like to join Citizens Project! Enclosed is my membership contribution of \$20.

☐ I'm already a member, but I'm ready to do more! Enclosed is my contribution of:

☐ \$20 ☐ \$35 ☐ \$50 ☐ \$120 ☐ Other: \$ _____

(All members receive a postage paid subscription to *Freedom Watch*.)

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